

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MOTOGOLF.COM, LLC, a Nevada limited liability company,

Case No. 2:20-cv-00674-APG-EJY

**Plaintiff,**

ORDER

v.

TOP SHELF GOLF, LLC, a Maine limited liability company; TOP SHELF IT SOLUTIONS, INC., a Maine corporation; IVAN SOKOLOVICH, an individual; INNA SOKOLOVICH, an individual; KEVIN P. MURPHY, an individual; KEVIN E. MURPHY, an individual; ALIAKSANR SHAVIALEVICH, an individual,

### Defendants.

14 Before the Court are the following: Plaintiff's Motion for Leave to Serve Process by  
15 Publication on Defendant Aliaksandr Shavialevich (ECF No. 26), Plaintiff's Motion to Extend  
16 Deadline to Serve Process on Defendant Aliaksandr Shavialevich (ECF No. 27), Plaintiff's Motion  
17 for Leave to Serve Process by Publication on Defendant Kevin P. Murphy (ECF No. 34), Plaintiff's  
18 Motion to Extend Deadline to Serve Process on Defendant Kevin P. Murphy (ECF No. 35), and  
19 Plaintiff's Motion for Leave to File Supplement (ECF No. 36). No response to any of these motions  
20 was filed with the Court.

## 21 || I. Facts Relevant to the Motions

## A. Plaintiff's Motions Re Aliaksandr Shavialevich.

23 Plaintiff's Motion seeking to extend the time within which it may effect service on Defendant  
24 Aliaksandr Shavialevich demonstrates that Plaintiff diligently searched for and found a reliable  
25 address for Mr. Shavialevich. ECF No. 27 at 2-4. Mr. Shavialevich's primary address was located  
26 in Quincy, Massachusetts. A secondary address was located for Mr. Shavialevich in Portland,  
27 Maine. *Id.* at 3. Service of process was attempted on Mr. Shavialevich at his Massachusetts address  
28 on three occasions, once speaking through an intercom to someone who claimed he had never heard

1 of Mr. Shavialevich. *Id.* at 4-5. Service was also attempted at the Portland, Maine address located  
 2 for Mr. Shavialevich on three occasions, but the property appeared vacant. *Id.* at 5.

3           **B. Plaintiff's Motions Re Kevin P. Murphy**

4 Plaintiff's Motion seeking to extend the time within which it may effect service on Defendant  
 5 Kevin P. Murphy evidences that Plaintiff located a reliable primary residence for Mr. Murphy in  
 6 New Bedford, Massachusetts, with a prior address in Portland, Maine. ECF No. 35 at 2-3. Attempts  
 7 to serve Mr. Murphy at each of these addresses on five separate occasions to no avail. *Id.* at 4-5.  
 8 Three of the service attempts at the New Bedford address were thwarted by Plaintiff's inability to  
 9 access the property. Plaintiff states that on the one occasion the process server gained entry to the  
 10 New Bedford address, no one responded at the door and, despite leaving a card requesting a call, the  
 11 process server never heard back from the resident of that location. *Id.* As a result of these efforts  
 12 Plaintiff seeks an extension of time to accomplish service on Mr. Murphy and also seeks permission  
 13 to serve him through publication.<sup>1</sup>

14           **II. DISCUSSION**

15           Federal Rule of Civil Procedure 4(m) allows the Court to extend time to effect service when  
 16 good cause is shown that reasonable efforts to effect service are undertaken by a plaintiff. Rule 4(e)  
 17 allows a party to seek service of a defendant "by ... following state law for serving a summons in  
 18 an action brought in courts of general jurisdiction in the state where the district court is located ...  
 19 ." Nevada Rule of Civil Procedure 4.4 allows service through alternative means so long as certain  
 20 procedural steps are undertaken.

21 Plaintiff explains that alternative service is appropriate not only because reasonable attempts  
 22 at service have been unsuccessful, but also because there is reason to believe that Messrs.  
 23 Shavialevich and Murphy may be attempting to evade service. ECF Nos. 26 at 9; 34 at 9. Plaintiff  
 24 explains that each of these defendants have listed primary addresses in Massachusetts with Mr.  
 25 Shavialevich listing the address in Quincy as the location at which he also serves as registered agent  
 26 for Oakwood Estates, LLC. ECF No. 27 at 3. Mr. Murphy listed the address in New Bedford,

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27           <sup>1</sup> Plaintiff adds that contact was received from an attorney stating he represented Messrs. Shavialevich and  
 28 Murphy, but after a few initial exchanges, the last of which was July 8, 2020, Plaintiff's counsel has not been contacted  
          again. ECF No. 36.

1 Massachusetts with the City of Portland, Maine, as recently as April 2020. ECF No. 34 at 5. Plaintiff  
2 also states that there is at least some likelihood that Mr. Murphy is aware of the lawsuit as his  
3 associate and codefendant, Mr. Sokolovich, was served. *Id.* at 9.

4 The Court finds that Plaintiff has been diligent in attempting to serve Mr. Shavialevich and  
5 Mr. Murphy. Service by publication is permitted by Nev. R. Civ. P. 4.4, which is incorporated by  
6 reference in Fed. R. Civ. P. 4(e). Plaintiff does not appear to have reliable email addresses for either  
7 of these individuals.

8 **III. ORDER**

9 Therefore, and in accordance with the federal and state rules pertaining to service of process,  
10 The Court HEREBY ORDERS that:

- 11 1. Plaintiff's Motions to Extend Deadline to Serve Process to Defendants Aliaksandr  
12 Shavialevich and Kevin P. Murphy (ECF Nos. 27 and 35) are GRANTED;
- 13 2. Plaintiff shall have through and including September 9, 2020 to effect such service;
- 14 3. Plaintiff's Motions to Serve Process by Publication on Defendants Aliaksandr  
15 Shavialevich and Kevin P. Murphy (ECF Nos. 26 and 34) are GRANTED;
- 16 4. Plaintiff's Motion for Leave to File Supplement (ECF No. 36) is GRANTED;
- 17 5. Plaintiff shall serve Defendants Aliaksandr Shavialevich and Kevin P. Murphy by  
18 publication in accordance with Plaintiff's Motions, exhibits attached thereto, and Nev.  
19 R. Civ. P. 4.4;
- 20 6. Plaintiff shall mail a copy of this Order, the Summons, and Complaint, via certified  
21 and regular U.S. mail, to Defendants Murphy and Shavialevich at their respective  
22 primary addresses as identified in Plaintiff's Motions. Such mailing shall occur no later  
23 than July 24, 2020; and,

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7. Plaintiff shall also mail a copy of this Order, together with a copy of the Summons and Complaint for Messrs. Shavalevich and Murphy, no later than July 24, 2020, to Charles J. Lee at 3145 St. Rose Parkway, Suite 220, Henderson, Nevada 89052, which is the address listed for Mr. Lee in the July 2020, Nevada Legal Directory.

Dated this 21st day of July, 2020

Elayna J. Youchah  
ELAYNA J. YOUCAH  
UNITED STATES MAGISTRATE JUDGE